



5 April 1978

DD/A Registry

File

Legal

STATINTL MEMORANDUM FOR:

[REDACTED]
Assistant General Counsel

STATINTL FROM :

[REDACTED]
Assistant for Information, DDA

SUBJECT :

Executive Order 12044,
Improving Government Regulations

REFERENCE :

Your memorandum dated 27 March 1978, same subject

1. We have reviewed Executive Order 12044, Improving Government Regulations, and it is our opinion that it excludes the regulations, handbooks, and notices that comprise the Agency regulatory system. Section 6(b)(3) of the Executive Order specifically excludes matters related to agency management or personnel. Our regulations certainly fall into that category.

2. Although some Agency regulatory issuances, such as [REDACTED] concerning the Freedom of Information Act, Privacy Act, and Executive Order 11652, relate to public policy, they are issued to provide guidance to Agency personnel and not as directives to the public. On occasion Agency regulatory issuances are published in the Federal Register. One such publication is [REDACTED] dated 7 September 1976, concerning records control schedules and the destruction moratorium. Publication in the Federal Register was intended to place on public record the Agency's policy on records destruction with no requirements levied on the public.

3. As stated in Section 1, Executive Order 12044 places a responsibility on all Federal agencies to publish regulations that are as simple and clear as possible and to ensure that the need for and purposes of a new regulation are clearly established. In my capacity as Assistant for Information, DDA, I review all regulatory proposals to ensure compliance.

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Attachment:

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RCB/ISAS [REDACTED] (5 Apr 78)

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78-12971

RECORDS AND CORRESPONDENCE

7 September 1976

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RECORDS CONTROL SCHEDULES AND THE DESTRUCTION MORATORIUM

1. CIA has statutory obligations (44 U.S.C. 33) to obtain approval of the Administrator of General Services for the retention and destruction of records. The mechanism for obtaining this approval is the submission of records control schedules to the National Archives and Records Service (NARS) for approval by the Archivist of the United States. GSA Bulletin FPMR B-62, dated 22 January 1976, requires Federal agencies to submit to NARS updated records control schedules by 31 December 1976. In a memorandum dated 20 April 1976, the DCI directed that Agency records control schedules be updated by 30 September 1976 and processed through the Directorate of Administration for approval by NARS prior to the destruction of records.

2. Senate Resolution 21, dated 21 January 1975, established the Senate Select Committee to Study Governmental Operation With Respect to Intelligence Activities. The Senate leadership requested in a letter dated 27 January 1975 that the Agency not dispose of any records or documents bearing on the subjects under investigation by the Select Committee. In a memorandum dated 28 January 1975, Mr. Colby directed that any records or documents that may have a bearing on Senate Resolution 21 not be destroyed. This was extended to include practically all Agency documents. This hold on destruction has since been referred to as "the moratorium." In a letter to the Senate leadership dated 22 June 1976, the DCI extended the moratorium on destruction of records until 10 December 1976.

3. CIA policy on destruction of records is that:

- a. All records, including those falling under General Records Schedules, will be covered by records control schedules approved by NARS (with a copy provided to the Senate Select Committee on Intelligence) prior to their destruction.
- b. Routine administrative records not involved under Senate Resolution 21 that are scheduled for immediate destruction will be destroyed upon receipt of NARS approval and after appropriate clearance from the Senate Select Committee.
- c. Records involved under Senate Resolution 21 that are scheduled for immediate destruction will be destroyed after NARS approval, and appropriate clearance from the Senate Select Committee but in no case prior to 10 December 1976.

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RECORDS AND CORRESPONDENCE

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- d. Any Agency documents and materials that are identified by the General Counsel as the subject of litigation or of possible litigation, or as of interest in matters under investigation by the Justice Department, will not be destroyed without the prior approval of the General Counsel. This includes documents and materials relating to Freedom of Information Act and Privacy Act requests to the Agency.
- e. Extra copies of documents preserved only for convenience of reference or for distribution stocks of publications may be destroyed when no longer needed.

4. Questions on the implementation of this policy should be directed to your component records officer.


E. H. Knoche

Deputy Director of Central Intelligence

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